

**TOWN OF SULLIVAN
ZONING BOARD OF APPEALS
SEPTEMBER 9, 2021
7:00 P.M.**

A regular meeting of the Zoning Board of Appeals of the Town of Sullivan was convened at the Town Office Building by Chairman Steve Durfee at 7:05 P.M.

Those in attendance for the meeting were: Chairman Steve Durfee, Members Terry Manning, Bryan Bendixen, Clifford Reals, Michael Keville and Attorney for the Board John Langey

PUBLIC HEARING

**7:00 P.M. – JENNIFER & JOHN DAILY: AREA VARIANCE (1257 ROUTE 31, 9.11-1-27)
REAR PROPERTY LINE SETBACK TO BUILD A POLE BARN.**

Jennifer and John Daily appeared before the Board to request an area variance for the rear property line setback. They would like to build a 32' x 48' pole barn where the shed was and there are all trees behind that area. There is a 20 ft. wide swale in the back and they are unable to do anything at that area. The pole barn will be 10 ft. from the rear property line and 25 ft. away from the swale.

The Madison County Planning Board returned the application for Local Determination.

The Town of Sullivan Planning Board sees no adverse Town-wide impact granting this request.

No one spoke for or against the application and the public hearing was closed at 7:15 P.M.

**STEVEN CROSS: AREA VARIANCE (8413 BLACK CREEK RD., 16.-1-13) NORTH SIDE
PROPERTY LINE SETBACK FOR NEW HOME.**

Attorney Edward (Ted) Perry appeared representing Steven Cross. He stated the area variance is needed as the builder was aware of the 15 ft. setback but the concrete pad was installed 12.5 ft. from the North side property line. This was a builder error and the slab is for a new double wide which has been placed. Steven Cross has spoken to the neighbor and they are fine with where the home is.

Member Terry Manning stated there appears to still be a fair amount of space between this lot and the neighbor. Relief of 2.5 ft. will be needed.

The Town of Sullivan Planning Board sees no adverse Town-wide impact granting this variance.

No one spoke for or against the application and the public hearing was closed at 7:25 P.M.

KENNETH CZARNECKI: (1239 PALMER CIRCLE, 9.25-1-12) INTERPRETATION BY THE BOARD OF A FENCE AS IT RELATES TO THE TOWN ZONING CODE.

Kenneth and Sherry Czarnecki appeared before the Board as they thought they were building a “trellis”, after receiving a violation saying a “fence” was built with no permit, they wanted to know what the definition of a “fence” was. Mr. Czarnecki researched and presented evidence on fences. Chairman Steve Durfee stated it is up to the Board to interpret/determine what is and what is not a fence. Attorney John Langey said in looking at the photos, ask is this structure considered to be a fence or not in this instance. Member Keville questioned if there are post or free-standing planter boxes. Mr. Czarnecki stated there are stakes to support inside the planter boxes to the ground but not driven posts. The entire structure is four (4) 5 ft. sections for a total of 20 ft. Member Manning stated he looked up the definition of a fence: “a barrier intended to prevent escape or intrusion or to mark a boundary” and asked if the trellis is acting as a fence barrier (boundary). Kenneth stated he is not stopping egress or ingress around it.

Kenneth said they used the planter boxes with flowers to have something to look at and not marking it as a boundary. The structure is 8 in. from property line and 16 ft. from house. Discussion was held questioning moving this 4 in. closer to house. Kenneth stated there is a walkway between the houses. It might be difficult to move as built as component and stakes are 4 ft. deep.

Attorney John Langey explained the definition of a “structure” requiring a building permit and stated tonight we are here to determine if this is to be a fence or not. If it is determined to be a fence then a variance would be needed as it is too close to the property line and inaccessible to maintain around the area. The highest point is 6 ft. and only 4 ft. is allowed in side yards. Discussion was held to just planting shrubs or having just planter boxes with no “permanent” structure and what is the definition of term “permanent”.

Nathan Hungate, neighbor appeared, the structure was built right on property line 4 in. from his home and has no access to move around his home. He feels it was placed there to restrict his movement around his house. He cannot go around his house without trespassing. Nathan just purchased the property about one year ago and his home is very close to property line. Discussion was held about the surveys and Attorney John Langey stated that surveys don’t always agree. The Board is not here to decide on surveys. There is also no clearance on the other side of his house and no right of way on his property. Mrs. Czarnecki showed the Board pictures on her phone of the planter boxes going down the steps.

It was recommended by Attorney John Langey to wait 30 days to think this through before making a decision. Member Reals made a motion, seconded by Member Manning and unanimously passed to table the public hearing and decision to the next meeting, October 14, 2021.

NEW BUSINESS

OLD BUSINESS

JENNIFER & JOHN DAILY: AREA VARIANCE (1257 ROUTE 31, 9.11-1-27) REAR PROPERTY LINE SETBACK TO BUILD A POLE BARN.

The Board jointly reviewed and considered the legal criteria and a proposed resolution for the granting of the requested area variance addressing each of the factors for approval or denial of the application. This request would not cause undesirable change or detriment to nearby properties as the building will not be noticeable from the road. The request is substantial, 67% of relief, but mitigated by the rear property neighbor. Route 31 is a busy roadway, the location of the building will not impact any views or neighbors' use of their own property. The need to store accumulated materials is the motive for the size and location of the structure.

This application was declared by the Board to be a Type II Action with Negative Declaration for SEQR, thus concluding the environmental review process for this matter.

A motion was duly made by Member Keville, seconded by Member Reals and unanimously passed by the Board that the benefit to the applicant does outweigh any detriment to the Neighborhood. The variance was approved granting 20 feet of relief from the rear property line to build a 32' x 48' pole barn 10 feet from the rear property line.

STEVE CROSS: AREA VARIANCE (8413 BLACK CREEK RD., 16.-1-13) NORTH SIDE PROPERTY LINE SETBACK FOR NEW HOME.

The Board jointly reviewed and considered the legal criteria and a proposed resolution for the granting of the requested area variance addressing each of the factors for approval or denial of the application. The new construction is in character with the neighborhood and 2.5 ft. of an already poured pad is not substantial. This was a contractor error.

This application was declared by the Board to be a Type II Action with Negative Declaration for SEQR, thus concluding the environmental review process for this matter.

A motion was duly made by Member Bendixen, seconded by Member Manning and unanimously passed by the Board that the benefit to the applicant does outweigh any detriment to the Neighborhood. The variance was approved granting 2.5 feet of relief from the North side property line for an already poured concrete slab for a new double-wide home.

APPROVAL OF MINUTES

A motion was duly made by Member Manning, seconded by Member Bendixen and unanimously passed by the Board approving the minutes of August 12, 2021.

ADJOURNMENT

A motion was duly made by Member Keville, seconded by Member Bendixen and unanimously passed to adjourn the meeting at 8:20 P.M.

Respectfully Submitted
Jeri Rowlingson, Secretary